

AMENDMENT NUMBER 04-08
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Wireless ("Contractor").

1. Contractor and State hereby agree to delete Sub-Paragraph 2.2 (*Subsequent Terms*) in its entirety and replace with the following:

Subsequent Terms. The term of this Master Contract may be extended up to an additional four (4) years, *provided that*, the extensions shall be at the option of DIS and shall be effected by DIS giving written notice of its intent to extend this Master Contract to Contractor not less than thirty (30) days prior to the expiration of the then-current Contract term and Contractor accepting such extension prior to the expiration date of the then-current Contract term. Each extension shall be for one year.

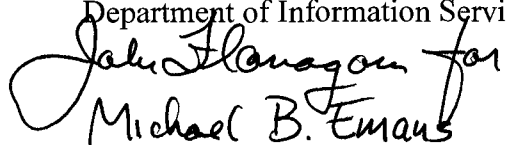
2. Contractor and State hereby agree to invoke an additional extension of the contract, specifically from December 31, 2003 through December 31, 2004.
3. Schedule B (*Problem Escalation Procedures*), is deleted in its entirety and replaced with Schedule B attached hereto.

This amendment shall be effective upon the latest signature date below.

All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

APPROVED

State of Washington
Department of Information Services


Michael B. Emans

Signature

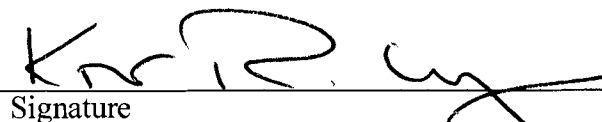
Michael B. Emans
Print or Type Name

Assistant Director
Title

9.26.03
Date

APPROVED

Arch Wireless


Signature

KENT R. NIZKOR
Print or Type Name

DIST. MGR. 9/20/03
Title Date

Schedule B

Problem Escalation Procedures

- The first point of notification for any type of pager failure or outage is the Wireless Sales Executive and/or Major Account Customer Service Center

First Level:

David Martindale

Wash. State Wireless Sales Executive

1-(800)-364-7570 or 1-(253)-693-5089

david.martindale@arch.com

And/Or

Major Account Customer Service Center

1-(888)-683-7243 or 1-(866)-839-2922

northwestmajors@arch.com

(Major Account Supervisor – Beverly Gray)

1-(972)-751-6840

beverly.gray@arch.com

- The second point of escalation for any type of pager failure or outages is the Pacific Northwest District Sales Manager. The Pacific Northwest District Sales Manager should be contacted if the problem is not resolved or service is not restored after eight (8) Business Hours.

Second Level:

Kent Nichols

Pacific Northwest District Sales Manager

1-(425) 653-6004

kent.nichols@arch.com

- The third level of escalation is the Regional Vice President. This level of escalation should be used if the problem is not resolved or service is not restored after twenty-four (24) hours.

Third Level:

Mark Madison

Regional Vice President

1-(480) 308-2928

mark.madison@arch.com

AMENDMENT NUMBER 03-07
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Wireless ("Contractor").

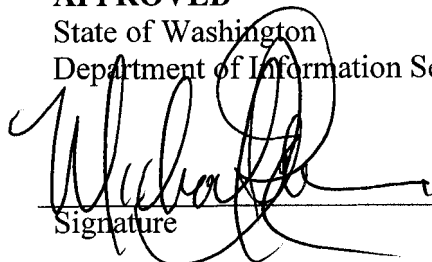
1. Schedule A (*Authorized Product and Price List*), is deleted in its entirety and replaced with the Schedule A, dated 6/5/2003 attached hereto.

This amendment shall be effective upon the latest signature date below.

All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

APPROVED

State of Washington
Department of Information Services



Signature

Michael B. Emans
Print or Type Name

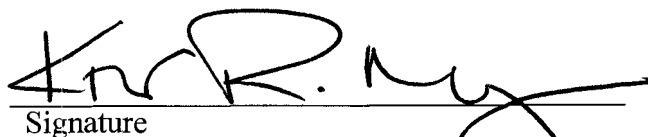
Assistant Director
Title

7/10/03

Date

APPROVED

Arch Wireless



Signature

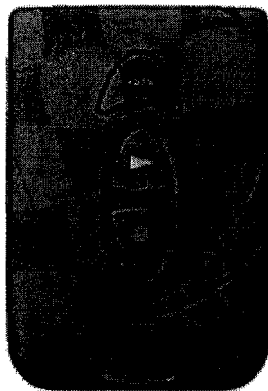
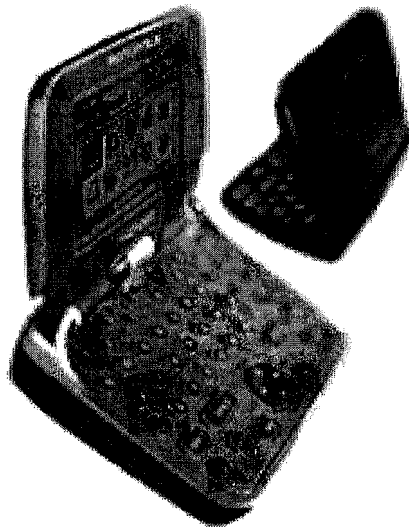
KENT R. NICHOLS
Print or Type Name

PNW DIST. MAR. 7/1/03

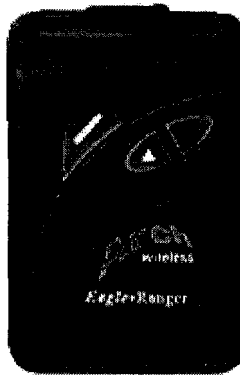
Title

Date

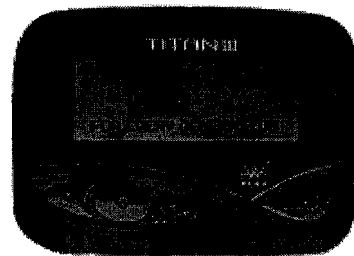
Arch
wireless



Bravo 501



Eagle Ranger



Titan III

NEW PRODUCTS NOW AVAILABLE FOR CURRENT AND NEW CUSTOMERS

WASHINGTON STATE CONTRACT

Master Contract Number T98-MST-008

Pricing

The proposed agreement between All State/Government Agencies and Arch Wireless includes the monthly rate for various wireless services, number of calls included in the monthly rate, price per call in excess of the stated limits, and ancillary services. Applicable taxes and administrative fees not included.

A. TWO-WAY MESSAGING PRICING

1. Leasing Options

T900 Lease					
<u>Airtime Package</u>	<u>Monthly Lease Cost</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Lease Loss Protection (\$45 Ded) OPTIONAL</u>	<u>Washington State Monthly Cost</u>	
10,000 Character	\$ 8.50	\$ 7.95	\$ 2.00	\$ 18.45	
25,000 Character	\$ 8.50	\$ 9.95	\$ 2.00	\$ 20.45	
75,000 Character	\$ 8.50	\$ 15.95	\$ 2.00	\$ 26.45	
250,000 Character	\$ 8.50	\$ 19.95	\$ 2.00	\$ 30.45	
Unlimited	\$ 8.50	\$ 24.95	\$ 2.00	\$ 35.45	

P935 Lease					
<u>Airtime Package</u>	<u>Monthly Lease Cost</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Lease Loss Protection (\$99 Ded) OPTIONAL</u>	<u>Washington State Monthly Cost</u>	
75,000 Character	\$ 10.00	\$ 15.95	\$ 4.00	\$ 31.95	
250,000 Character	\$ 10.00	\$ 19.95	\$ 4.00	\$ 34.95	
Unlimited	\$ 10.00	\$ 24.95	\$ 4.00	\$ 38.95	

2. Optional Services

One Number Access/800 # Service	\$4.00
Voicemail	\$3.00
Operator Dispatch	\$4.00

3. Overcalls

10,000 Character Plan (T900 Only)	\$0.0010 per character
25,000 Character Plan (T900 Only)	\$0.0007 per character
75,000 Character Plan	\$0.0006 per character
250,000 Character Plan	\$0.0005 per character

4. Customer Purchase Options

T900 Purch					
<u>Airtime Package</u>	<u>Purchase Price</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Purch Maint. OPTIONAL</u>	<u>Washington State Monthly Cost W/ MNT</u>	
10,000 Character	\$ 99.00	\$ 7.95	\$ 2.00	\$ 9.95	
25,000 Character	\$ 99.00	\$ 9.95	\$ 2.00	\$ 11.95	
75,000 Character	\$ 99.00	\$ 15.95	\$ 2.00	\$ 17.95	
250,000 Character	\$ 99.00	\$ 19.95	\$ 2.00	\$ 21.95	
Unlimited	\$ 99.00	\$ 24.95	\$ 2.00	\$ 26.95	

P935 Purch					
<u>Airtime Package</u>	<u>Purchase Price</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Purch Maint. OPTIONAL</u>	<u>Washington State Monthly Cost W/ MNT</u>	
75,000 Character	\$ 199.00	\$ 15.95	\$ 4.00	\$ 19.95	
250,000 Character	\$ 199.00	\$ 19.95	\$ 4.00	\$ 23.95	
Unlimited	\$ 199.00	\$ 24.95	\$ 4.00	\$ 28.95	

5. Optional Services

One Number Access/800 # Service	\$4.00
Voicemail	\$3.00
Operator Dispatch	\$4.00

6. Overcalls

10,000 Character Plan (T900 Only)	\$0.0010 per character
25,000 Character Plan (T900 Only)	\$0.0007 per character
75,000 Character Plan	\$0.0006 per character
250,000 Character Plan	\$0.0005 per character

B. WASHINGTON STATEWIDE ONE-WAY COVERAGE (Local)

Pager Type	Mo. Rate	Pager Protection*	Calls Included	Overcall Rate
DIGITAL PAGERS	\$ 2.25	\$ 0.50	500 Pages	\$ 0.10 per page thereafter
ALPHANUMERIC PAGERS	\$ 4.85	\$ 0.50	200 Pages	\$ 0.25 per page thereafter

***Pager Protection Program**

To reduce your financial exposure to loss or theft of an Arch pager, we offer a monthly pager protection plan, which significantly reduces the replacement cost to a manageable deductible.

Deductible for Lost Unit

Digital Display	\$25
Alphanumeric	\$50

Replacement Cost without Pager Protection

Digital Display	\$89
Alphanumeric	\$150

C. SERVICE OPTIONS AVAILABLE

1. Voicemail

Package	Prompt Length	Message Length	Total Messages	Hold Time	Price
MP 4	60 Seconds	30 Seconds	10	12 Hours	\$ 0.95
MP 2	45 Seconds	45 Seconds	10	24 Hours	\$ 1.95
MP 1	30 Seconds	60 Seconds	15	72 Hours	\$ 2.95

- | | |
|---|---------|
| 2. Custom Prompt – Voice prompt without voicemail | \$ 0.50 |
| 3. Toll Free Number – Non-Pay phone blocked (50 calls, \$0.25 thereafter) | \$ 4.00 |
| 4. Addition Local Number | \$ 0.50 |
| 5. Numeric Retrieval | \$ 0.50 |
| 6. Oregon Coverage | \$ 1.00 |
| 7. Extensive Eastern Washington Coverage | \$ 3.95 |

D. ASSURED MESSAGING (See Section A, Two-Way Messaging & Section B for Assured Alphanumeric)

E. NATIONWIDE COVERAGE (See Section A, Two-Way Messaging & Section B for Assured Alphanumeric)

Service

As your *Wireless Sales Executive*, I can be relied upon to perform the following:

- Provide a cost analysis of wireless products and service
- Software configuration and training
- Pager training
- Set-up additional services

“Spare” Pager Program

Arch will provide “spare” pagers to a central contact. In the event of a problem with any pager unit, an existing pager number may be transferred and used on one of these “spare” pagers, so service may continue, uninterrupted. With every 100 pagers on your account, your account may carry two “spare pagers” It takes only minutes to complete this phone transaction. Simply call customer service and they will transfer the number to the “spare” unit. The Arch customer service representative will remain on the line with you until a test page is received, ensuring that you are registered with a working replacement for the defective unit.

Mail-Out Program

Arch Wireless is committed to the interest of providing superior customer service. With this interest a top concern, Arch Wireless has implemented a Mail-Out program. This allows the Wireless Sales Executives more time to proactively monitor accounts, as well as provide accurate solutions to your communication needs.

AMENDMENT NUMBER 03-06
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Wireless ("Contractor").

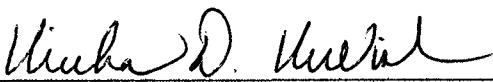
1. Schedule A (*Authorized Product and Price List*), is deleted in its entirety and replaced with the Schedule A attached hereto.

This amendment shall be effective upon the latest signature date below.

All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

APPROVED

State of Washington
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name

Assistant Director

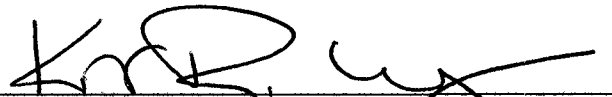
Title

1/13/03

Date

APPROVED

Arch Wireless



Signature

KENT R. NICHOLS

Print or Type Name

PNW DIST. MGR 1/4/03

Title

1/4/03

Date

Arch
wireless



WASHINGTON STATE CONTRACT

Master Contract Number T98-MST-008

Pricing

The proposed agreement between All State/Government Agencies and Arch Wireless includes the monthly rate for various wireless services, number of calls included in the monthly rate, price per call in excess of the stated limits, and ancillary services. Applicable taxes and administrative fees not included.

A. TWO-WAY MESSAGING PRICING

1. Leasing Options

T900 Lease					
<u>Airtime Package</u>	<u>Monthly Lease Cost</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Lease Loss Protection (\$45 Ded) OPTIONAL</u>	<u>Washington State Monthly Cost</u>	
10,000 Character	\$ 10.00	\$ 7.95	\$ 2.00	\$ 19.95	
25,000 Character	\$ 10.00	\$ 9.95	\$ 2.00	\$ 21.95	
75,000 Character	\$ 8.50	\$ 15.95	\$ 2.00	\$ 26.45	
250,000 Character	\$ 8.50	\$ 19.95	\$ 2.00	\$ 30.45	
Unlimited	\$ 8.50	\$ 24.95	\$ 2.00	\$ 35.45	

P935 Lease					
<u>Airtime Package</u>	<u>Monthly Lease Cost</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Lease Loss Protection (\$99 Ded) OPTIONAL</u>	<u>Washington State Monthly Cost</u>	
10,000 Character	\$ 10.00	\$ 7.95	\$ 4.00	\$ 21.95	
25,000 Character	\$ 10.00	\$ 9.95	\$ 4.00	\$ 23.95	
75,000 Character	\$ 10.00	\$ 15.95	\$ 4.00	\$ 31.95	
250,000 Character	\$ 10.00	\$ 19.95	\$ 4.00	\$ 34.95	
Unlimited	\$ 10.00	\$ 24.95	\$ 4.00	\$ 38.95	

2. Optional Services

One Number Access/800 # Service	\$4.00
Voicemail	\$3.00
Operator Dispatch	\$4.00

3. Customer Purchase Options

T900 Purch					
<u>Airtime Package</u>	<u>Purchase Price</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Purch Maint. (\$45 Ded)</u>	<u>Washington State Monthly Cost W/ MNT</u>	
			OPTIONAL		
10,000 Character	\$ 99.00	\$ 7.95	\$ 2.00	\$ 9.95	
25,000 Character	\$ 99.00	\$ 9.95	\$ 2.00	\$ 11.95	
75,000 Character	\$ 99.00	\$ 15.95	\$ 2.00	\$ 17.95	
250,000 Character	\$ 99.00	\$ 19.95	\$ 2.00	\$ 21.95	
Unlimited	\$ 99.00	\$ 24.95	\$ 2.00	\$ 26.95	

P935 Purch					
<u>Airtime Package</u>	<u>Purchase Price</u>	<u>Washington State Monthly Airtime Cost</u>	<u>Monthly Purch Maint. (\$99 Ded)</u>	<u>Washington State Monthly Cost W/ MNT</u>	
			OPTIONAL		
10,000 Character	\$ 199.00	\$ 7.95	\$ 2.00	\$ 9.95	
25,000 Character	\$ 199.00	\$ 9.95	\$ 2.00	\$ 11.95	
75,000 Character	\$ 199.00	\$ 15.95	\$ 4.00	\$ 19.95	
250,000 Character	\$ 199.00	\$ 19.95	\$ 4.00	\$ 23.95	
Unlimited	\$ 199.00	\$ 24.95	\$ 4.00	\$ 28.95	

4. Optional Services

One Number Access/800 # Service	\$4.00
Voicemail	\$3.00
Operator Dispatch	\$4.00

B. WASHINGTON STATEWIDE ONE-WAY COVERAGE (Local)

- See attached e-mail

Pager Type	Mo. Rate	Pager Protection*	Calls Included	Overcall Rate
DIGITAL PAGERS	\$ 4.85 3.45	\$ 0.50	500 Pages	\$ 0.10 per page thereafter
ALPHANUMERIC PAGERS	\$ 6.85	\$ 0.50	200 Pages	\$ 0.25 per page thereafter

Assured Alphanumeric	Mo. Rate	Pager Protection*	Calls Included	Overcall Rate
Plan 1	\$ 7.95	\$ 0.50	1500 pages at 10 characters each	\$ 0.05 each additional
Plan 2	\$ 11.95	\$ 0.50	2500 pages at 10 characters each	\$ 0.05 each additional
Plan 3	\$ 19.95	\$ 0.50	Unlimited	Not Applicable

***Pager Protection Program**

To reduce your financial exposure to loss or theft of an Arch pager, we offer a monthly pager protection plan, which significantly reduces the replacement cost to a manageable deductible.

Deductible for Lost Unit

Digital Display	\$25
Alphanumeric	\$50

Replacement Cost without Pager Protection

Digital Display	\$89
Alphanumeric	\$150

C. SERVICE OPTIONS AVAILABLE

1. Voicemail

Package	Prompt Length	Message Length	Total Messages	Hold Time	Price
MP 1	60 Seconds	60 Seconds	15	72 Hours	\$ 0.95
MP 2	45 Seconds	45 Seconds	10	24 Hours	\$ 1.95
MP 4	30 Seconds	30 Seconds	10	12 Hours	\$ 2.95

- | | |
|---|---------|
| 2. Custom Prompt – Voice prompt without voicemail | \$ 0.50 |
| 3. Toll Free Number – Washington Only | \$ 3.95 |
| 4. Toll Free Number – Non-Pay phone blocked (50 calls, \$0.25 thereafter) | \$ 7.00 |
| 5. Addition Local Number | \$ 0.50 |
| 6. Numeric Retrieval | \$ 0.50 |
| 7. Oregon Coverage | \$ 1.00 |
| 8. Extensive Eastern Wasington Coverage | \$ 3.95 |

D. ASSURED MESSAGING (See Section A, Two-Way Messaging & Section B for Assured Alphanumeric)

E. NATIONWIDE COVERAGE (See Section A, Two-Way Messaging & Section B for Assured Alphanumeric)

Service

As your *Wireless Sales Executive*, I can be relied upon to perform the following:

- Provide a cost analysis of wireless products and service
- Software configuration and training
- Pager training
- Set-up additional services

“Spare” Pager Program

Arch will provide “spare” pagers to a central contact. In the event of a problem with any pager unit, an existing pager number may be transferred and used on one of these “spare” pagers, so service may continue, uninterrupted. With every 100 pagers on your account, your account may carry two “spare pagers” It takes only minutes to complete this phone transaction. Simply call customer service and they will transfer the number to the “spare” unit. The Arch customer service representative will remain on the line with you until a test page is received, ensuring that you are registered with a working replacement for the defective unit.

Mail-Out Program

Arch Wireless is committed to the interest of providing superior customer service. With this interest a top concern, Arch Wireless has implemented a Mail-Out program. This allows the Wireless Sales Executives more time to proactively monitor accounts, as well as provide accurate solutions to your communication needs.

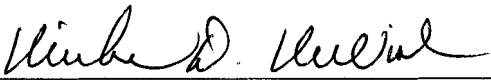
AMENDMENT NUMBER 03-05
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Wireless ("Contractor").

1. Provision 2 (*Term*) shall be amended to extend the Contract for an additional year specifically from December 31, 2002 through December 31, 2003.
2. Schedule B (*Problem Escalation Procedures*), is deleted in its entirety and replaced with the new Schedule B attached hereto.

All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

APPROVED
State of Washington
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name

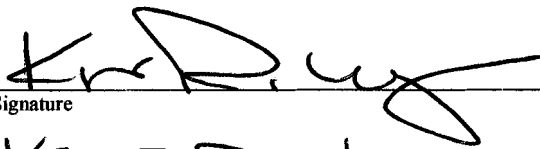
Assistant Director

Title

1/3/03

Date

APPROVED
Arch Wireless



Signature

KENT R. NICHOLS

Print or Type Name

PNWDIST. MGR. 11/27/02

Title Date

Schedule B

Problem Escalation Procedures

- The first point of notification for any type of pager failure or outage is the Wireless Sales Executive and/or Major Account Customer Service Center

First Level:

Peter Berge

Wash. State Wireless Sales Executive
1-(877)-638-9504 or 1-(253)-983-0522
peter.berge@arch.com

And/Or

Major Account Customer Service Center

1-(888)-683-7243 or 1-(866)-839-2922
northwestmajors@arch.com
(Major Account Supervisor – Beverly Gray)
1-(972)-751-6840
beverly.gray@arch.com

- The second point of escalation for any type of pager failure or outages is the Pacific Northwest District Sales Manager. The Pacific Northwest District Sales Manager should be contacted if the problem is not resolved or service is not restored after eight (8) Business Hours.

Second Level:

Kent Nichols

Pacific Northwest District Sales Manager
1-(425) 653-6004
kent.nichols@arch.com

- The third level of escalation is the Regional Vice President. This level of escalation should be used if the problem is not resolved or service is not restored after twenty-four (24) hours.

Third Level:

Mark Madison

Regional Vice President
1-(480) 308-2928
mark.madison@arch.com

AMENDMENT NUMBER 02-04
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

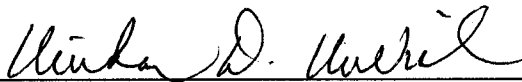
In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Paging ("Contractor").

1. Schedule B (*Problem Escalation Procedures*), is deleted in its entirety and replaced with the new Schedule B attached hereto.

All other provisions, terms and conditions, as previously amended, shall remain in full force and effect.

APPROVED

State of Washington
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name


Assistant Director

Title

Date

APPROVED

Arch Paging



Signature

KENT R. NICHOLS

Print or Type Name

Dist. Sales Mgr 12/18/01

Title

Date

Schedule B

Problem Escalation Procedures

The first point of notification for any type of pager failure or outage is the Senior Wireless Sales Executive and/or Elite Customer Service Representative.

First Level: Theresa Thomas-Jackson
Senior Wires Sales Executive
(800) 535-8059
And/or
Dawn Falen
Elite Customer Service Representative
(866) 839-2922

The second point of escalation for any type of pager failure or outages is the District Sales Manager. The District Sales Manager should be contacted if the problem is not resolved or service is not restored after eight (8) Business Hours.

Second Level: Kent Nichols
District Sales Manager
(800) 864-7243 Extension # 3102

The third level of escalation is the Regional Vice President, located in Bellevue, Washington. This level of escalation should be used if the problem is not resolved or service is not restored after twenty-four (24) hours.

Third Level: Angie Shanley
Regional Vice President
(800) 864-7243 Extension # 3101



STATE OF WASHINGTON
DEPARTMENT OF INFORMATION SERVICES
Olympia, Washington 98504-2445

November 29, 2001

Arch Wireless
Attn: Lori Sechrist, WA District Manager
5580 Pacific Highway East, Suite D
Tacoma WA 98424

RE: Extension (02-03) of State of Washington Contract Number T98-MST-008
for Wireless Paging Equipment and Service

Dear Ms. Sechrist:

The current term of Contract T98-MST-008 will expire on December 31, 2001. Pursuant to Provision 2 (*Term*), this letter is written notice to Arch Wireless of the Department of Information Services' intent to extend this contract for one additional year, specifically through December 31, 2002.

Sincerely,

Michael D. McVicker, Assistant Director
Department of Information Services
PO Box 42445
Olympia Washington 98504-2445



AMENDMENT NUMBER 01-02
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

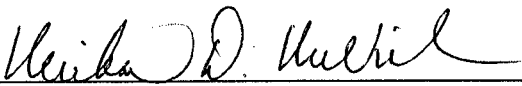
In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Wireless ("Contractor").

Contractor is doing business in the state of Washington as Arch Wireless and maintains Arch Wireless Holdings, Inc. as a registered trade name in Washington.

1. The parties agree that Arch Wireless, formerly known as Arch Paging, is now known as Arch Wireless.
2. This amendment accomplishes a change of corporate name only and all rights and obligations of DIS and of the Contractor under the Wireless Paging and Service Contract are unaffected by this change.
3. The parties hereby agree that all references to Contractor in the Wireless Paging and Service Contract are now replaced with Contractor's new name, Arch Wireless.
4. Pursuant to Paragraph 4 (*Pricing*), Schedule A (*Approved Products and Price List*), is replaced in its entirety with the new Schedule A attached hereto. The new Schedule A contains new Equipment and Services and their associated costs.

All other provisions, terms and conditions of the Contract, as previously amended, shall remain in full force and effect.

APPROVED
State of Washington
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name


Assistant Director

Title

4/16/01

Date

APPROVED
Arch Wireless



Signature
Lori A. Sechrist

Print or Type Name
WA District Manager

4/11/01

Title

Date

State of Washington
Department of Information Services

T98-MST-008
Amendment 01-02

AMENDMENT NUMBER 01-01
to
Contract Number T98-MST-008
for Wireless Paging Equipment and Service

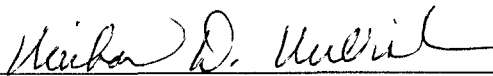
In accordance with Provision 27 (*Authority for Modifications and Amendments*) of Contract Number T98-MST-008 for Wireless Paging Equipment and Service (the "Contract"), this Amendment is entered into by and between the State of Washington, Department of Information Services ("DIS") and Arch Paging ("Contractor").

1. Pursuant to Provision 2.2 (*Subsequent Terms*) of the Contract, DIS and Contractor agree to extend the term of the Contract from December 31, 2000 through December 31, 2001.
2. Pursuant to Paragraph 4 (*Pricing*), Schedule A (*Approved Products and Price List*), is deleted in its entirety and replaced with the new Schedule A attached to this Amendment. The new Schedule A contains new Equipment and Services and their associated costs.

All other provisions, terms and conditions of the Contract shall remain in full force and effect.

APPROVED

State of Washington
Department of Information Services



Signature

Michael D. McVicker

Print or Type Name

Assistant Director

Title

12/8/00

Date

APPROVED

Arch Paging



Signature

LORI A. SECHRIST

Print or Type Name

WA. DISTRICT MGR 12-4-00

Title Date

Master Contract Number

T98-MST-008

for

**WIRELESS PAGING EQUIPMENT
AND SERVICE**

Between the

Department of Information Services

and

Arch Paging

Effective Date: December 31, 1997

Master Contract Table of Contents

1.	Definitions	2
Contract Term		
2.	Term	3
3.	Survivorship.....	3
Pricing, Invoice and Payment		
4.	Pricing.....	3
5.	Taxes.....	4
6.	Invoice and Payment	4
7.	Overpayment to Contractor	4
8.	Advance Payment Prohibited	5
Contractor's Responsibilities		
9.	In-State Presence	5
10.	RFQ Mandatory Provisions and Technical Requirements	5
11.	Risk of Loss and Shipping.....	5
12.	Title.....	5
13.	Equipment Delivery.....	5
14.	Site Responsibilities	6
15.	Equipment Warranty.....	6
16.	Maintenance.....	6
17.	Customer Support.....	6
18.	Documentation.....	6
19.	Contractor Commitments, Warranties and Representations.....	7
20.	Contractor Account Manager	7
21.	Year 2000 Compliance Warranty	7
Purchaser's Authority and Responsibilities		
22.	Purchaser Use of Master Contract	7
Contract Administration		
23.	Notices	8
24.	Section Headings, Incorporated Documents and Order of Precedence	8
25.	Entire Agreement.....	9
26.	Additional Services and Equipment	9
27.	Authority for Modifications and Amendments.....	9
28.	Independent Status of Contractor	9
29.	Governing Law	9
30.	Subcontractors	10
31.	Assignment	10
32.	Publicity.....	10
33.	Review of Contractor's Records	10
General Provisions		
34.	Patent and Copyright Indemnification.....	11
35.	Save Harmless	12
36.	Industrial Insurance Coverage	12
37.	Licensing Standards.....	12
38.	OSHA/WISHA	12

Table of Contents, Cont'd.

39.	Compliance with Civil Rights Laws	12
40.	Severability	13
41.	Waiver	13
42.	Treatment of Assets	13
43.	Contractor's Proprietary Information	13

Disputes and Remedies

44.	Disputes	14
45.	Attorneys' Fees and Costs	14
46.	Non-Exclusive Remedies	15
47.	Limitation of Liability	15

Contract Termination

48.	Termination for Default	15
49.	Termination for Convenience	16
50.	Termination for Withdrawal of Authority	16
51.	Termination for Non-Allocation of Funds	17
52.	Termination for Conflict of Interest	17
53.	Termination Procedure	17

Activity Reporting and Administration Fee

54.	DIS Master Contract Administration Fee and Collection	17
55.	Master Contract Activity Reporting	18
56.	Failure to Remit Reports/Fees	18

Contract Execution

57.	Authority to Bind	19
58.	Counterparts	19

Schedules

Schedule A:	<i>Authorized Product and Price List</i>
Schedule B:	Problem Escalation Procedures

Exhibits

Exhibit A:	DIS Request for Quotations for Wireless Paging Equipment and Service
Exhibit B:	Contractor's Response

Note: *Exhibits A and B are not attached but are available upon request from the DIS Contract Administrator*

State of Washington
Department of Information Services
PO Box 42445
512 - 12th Avenue SE
Olympia, Washington 98504-2445

Master Contract Terms and Conditions
For the Provision of
Wireless Paging Equipment and Service

Master Contract Number T98-MST-008

Parties

This Master Contract is entered into by and between the state of Washington acting through the **Department of Information Services**, an agency of Washington State government (hereinafter "DIS"), and **Arch Paging**, licensed to conduct business in the state of Washington, (hereinafter "Contractor") for the provisioning of Wireless Pagers and Paging Service (hereinafter "Equipment and Service") to the State.

Recitals

Whereas, the State of Washington acting by and through the Department of Information Services conducted an open, competitive acquisition process and issued a Request for Quotation, dated November 13, 1997, Exhibit A hereto, for the purpose of obtaining Wireless Pagers and Paging Service.

Whereas, Arch Paging submitted a timely Response, Exhibit B hereto and after evaluation, was identified as the apparently successful Contractor; and,

Whereas, the Department of Information Services has determined that entering into a Master Contract with Arch Paging will meet the needs of Purchasers and will be in the State's best interest;

Now therefore, DIS hereby awards to Contractor this Master Contract to furnish Equipment and Service to Purchasers at the prices set forth on Schedule A in accordance with the terms and conditions of this Master Contract.

This Master Contract is an Optional Use Contract that neither financially binds the State nor otherwise obligates the State to purchase any Equipment or Service hereunder. Nor does this Master Contract prevent the State from purchasing the same or similar Equipment and services from other sources, *provided that*, all legal acquisition requirements are satisfied. This Master Contract is not for personal use.

1. Definitions

"Business Days and Hours" shall mean Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

"Contractor" shall mean Arch Paging, its employees and agents. "Contractor" also includes any firm, provider, organization, individual, or other entity providing Equipment or performing services under this Master Contract. It shall also include any subcontractor retained by Contractor as permitted under the terms of this Master Contract.

"DIS Contract Administrator" shall mean the person designated by DIS as responsible for the maintenance and administration of this Master Contract, notices, reports and any other pertinent documentation or information. The DIS Contract Administrator may also conduct periodic performance or financial audits related to this Master Contract.

"DIS Contracting Officer" shall mean the Deputy Director of DIS with signature authority or the person to whom signature authority has been delegated in writing. This term includes, except as otherwise provided in this Master Contract, an authorized representative of the Contracting Officer acting within the limits of his/her authority.

"Equipment" shall mean the Wireless Pagers, components and features thereof, including embedded software, if any, and any other Equipment properly added to this Master Contract, all as set forth on Schedule A - *Authorized Product and Price List*. Equipment also includes maintenance, as indicated on Schedule A.

"Price" shall mean charges, costs, rates, and/or fees charged for the Equipment and Service under this Master Contract and shall be paid in United States dollars.

"Products" shall mean any Contractor supplied Equipment.

"Purchaser" shall mean DIS and any Washington State agency with properly delegated authority to purchase the Equipment and Service which are the subject of this Master Contract, or any political subdivision of the state of Washington or non-profit organization with the authority to purchase such Equipment or Services under a properly executed Interlocal Cooperative Agreement with DIS.

"Service" shall mean statewide Wireless Paging which is ordered under this Master Contract.

"Specifications" shall mean the technical and other specifications set forth in the RFQ, Exhibit A, and any additional specifications set forth in Contractor's Response, Exhibit B, collectively.

"State" shall mean DIS, any division, section, office, unit or other entity of DIS or any of the officers or other officials lawfully representing DIS. State may also include Purchaser.

Contract Term

2. Term

- 2.1. Initial Term. The initial term of this Master Contract shall be three (3) years, commencing upon the date of its execution by DIS.
- 2.2. Subsequent Terms. The term of this Master Contract may be extended by two (2) additional one-year terms, *provided that*, the extensions shall be at the option of DIS and shall be effected by DIS giving written notice of its intent to extend this Master Contract to Contractor not less than thirty (30) days prior to the expiration of the then-current Contract term, ~~and Contractor accepting such extension prior to the expiration date of the then-current Contract term.~~

Handwritten: 12/2/97 1:298

3. Survivorship

The terms, conditions and warranties contained in this Master Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Master Contract shall so survive. Specifically, the terms of the sections titled **Patent and Copyright Indemnification; Disputes; and Limitation of Liability** shall survive the termination of this Master Contract.

Pricing, Invoice and Payment

4. Pricing

- 4.1. Contractor agrees to provide the Equipment and Service at the prices set forth in the *Authorized Product and Price List* attached as Schedule A to this Master Contract. No other prices shall be payable to Contractor, except for the DIS Master Contract Administration Fee. Such prices may not be increased during the term of this Master Contract.
- 4.2. If Contractor reduces its prices for any of the Equipment or Service during the term of this Master Contract, Purchaser shall have the immediate benefit of such lower prices for new purchases. Contractor will send notice to the DIS Contract Administrator with the reduced prices within fifteen (15) calendar days of the reduction taking effect.
- 4.3. Contractor agrees all the prices, terms, warranties, and benefits provided in this Master Contract are comparable to or better than the terms presently being offered by Contractor to any other governmental entity purchasing the same quantity under similar terms. If Contractor, during the term of this Master Contract, shall enter into contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Master Contract, Contractor shall be obligated to provide the same to Purchaser for subsequent purchases.
- 4.4. Contractor agrees that it shall adjust any contracted rates or terms, if and when special consideration for education organizations becomes available as a result of the Federal Telecommunications Act of 1996 or any other federal or state legislation or regulatory action.

5. Taxes

Purchaser will pay sales and use taxes imposed on the Equipment or Service at Purchaser's local rate. Contractor shall pay all other taxes including, but not limited to, Washington Business and Occupation Tax, taxes based on contractor's income, or taxes levied or assessed on Contractor's personal property.

6. Invoice and Payment

- 6.1. Contractor will submit properly itemized invoices to Purchaser. Invoices shall provide the following:
 - a) Contractor's name and address and remittance address, if different;
 - b) Purchaser's name and address, and Purchase Order or Field Order number;
 - c) This Master Contract number (T98-MST-008);
 - d) Description of Equipment, including price, quantity ordered, model and serial numbers;
 - e) Description of Service, including price;
 - f) Date of delivery and/or date of installation and setup;
 - g) Applicable discounts;
 - h) Total invoice price, excluding sales tax;
 - i) DIS Master Contract Administration Fee;
 - j) Sales or other applicable taxes;
 - k) Total invoice price; and
 - l) Payment terms including any available prompt payment discounts.
- 6.2. Payments shall be due within thirty (30) days after the Acceptance Date for such Equipment or Thirty (30) days after receipt of properly prepared invoices, whichever is later.
- 6.3. Incorrect or incomplete invoices will be returned by Purchaser to Contractor for correction and reissue.
- 6.4. This Master Contract number (T98-MST-008) shall appear on all invoices, bills of lading, packages, and correspondence relating to this Contract. Purchaser shall not honor drafts, or accept goods on a sight draft basis.
- 6.5. If Purchaser fails to make timely payment, Contractor may invoice Purchaser one percent (1%) per month on the amount overdue or a minimum of \$1.00. Payment will not be considered late if a check or warrant is postmarked within thirty (30) days of the Acceptance Date of the Equipment or receipt of Contractor's properly prepared invoice, whichever is later.

7. Overpayment to Contractor

Contractor shall promptly refund to Purchaser the full amount of any erroneous payment or overpayment, as determined by Purchaser, made to Contractor, upon notice of such.

8. Advance Payment Prohibited

No advance payment shall be made for the Equipment and Services furnished by Contractor under this Master Contract.

Contractor's Responsibilities

9. In-State Presence

Contractor shall have or establish, within sixty (60) days of the Effective Date of this Master Contract, a place of business within Washington State. All purchase orders will commence at such in-state location. Purchasers shall not be required to deal with any subcontractor for order placement.

10. RFQ Mandatory Provisions and Technical Requirements

The mandatory RFQ provisions and the provisions of Contractor's Response are incorporated into and are essential substantive terms of this Master Contract. Equipment provided under this Master Contract shall meet or exceed all of the mandatory technical requirements of the RFQ.

11. Risk of Loss and Shipping

Contractor shall ship all Equipment purchased under this Master Contract, freight prepaid, FOB Purchaser's destination. The method of shipment shall be consistent with the nature of the Equipment and hazards of transportation. Regardless of FOB point, Contractor agrees to bear all risks of loss, damage, or destruction of the Equipment ordered hereunder which occurs prior to the Acceptance Date, except loss or damage attributable to Purchaser's fault or negligence; and such loss, damage, or destruction shall not release Contractor from any obligation hereunder. After the Acceptance Date, the risk of loss or damage shall be borne by Purchaser, except loss or damage attributable to Contractor's fault or negligence.

12. Title

Upon receipt of payment, Contractor shall convey to Purchaser good title to the Equipment, excluding licensed software, free and clear of all liens, pledges, mortgages, encumbrances, or other security interests.

13. Equipment Delivery

- 13.1. Contractor shall deliver the Equipment to Purchaser's location on or before the agreed upon delivery date. For any exception to this delivery date, Contractor shall notify Purchaser and obtain prior approval in writing. Time is of the essence with respect to delivery and Contractor may be subject to cancellation of the order, or termination of this Master Contract, or other damages available under law for failure to deliver on time.
- 13.2. All products must be delivered by Contractor during Business Hours to the point of delivery designated by the Purchaser. Failure to deliver product or service within five (5) Business days of an order will cause the order to be cancelled unless Purchaser has agreed to an alternative delivery schedule.

14. Site Responsibilities

While on Purchaser's premises, Contractor, its agents, employees, or subcontractors shall conform in all respects with physical, fire, or other security regulations.

15. Equipment Warranty

- 15.1. Contractor warrants that the Equipment shall be in good operating condition and shall conform to the Specifications and other materials provided to Purchaser as set forth in the section titled **Contractor Commitments, Warranties and Representations**.
- 15.2. All Equipment shall be new (of original manufacture) or manufacturer warranted as new, unless otherwise waived by Purchaser.
- 15.3. Contractor shall pass original equipment manufacturer warranties through to Purchaser.
- 15.4. **THE WARRANTIES IN THIS MASTER CONTRACT REPLACE ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE.**

16. Maintenance

- 16.1. Contractor shall provide maintenance service twenty-four (24) hours per day, seven (7) days per week. An answering service may be used outside Business Hours to dispatch service calls; however, response time on service calls must never exceed 24 hours without Purchaser's express consent.
- 16.2. Contractor shall provide a supply of spare paging devices and batteries at Purchaser's location (s) at no charge until activated.
- 16.3. Contractor's spare parts pricing for equipment that might be lost, stolen, or damaged beyond repair is included in Schedule A.

17. Customer Support

- 17.1. **Help Desk Function**
Contractor's toll-free number for general customer assistance and information is (800) 879-3785.
- 17.2. **Customer Service Representatives**
Contractor's Customer Service Representatives (CSR) for the Contract, will promote, market, and demonstrate the paging service to potential Purchasers.

18. Documentation

Contractor shall supply each Purchaser with pertinent Equipment manuals and operating information and/or program descriptions for Contractor's Products and Service.

19. Contractor Commitments, Warranties and Representations

Any written commitment by contractor within the scope of this Master Contract shall be binding upon Contractor. Failure of Contractor to fulfill such a commitment may constitute breach and shall render Contractor liable for damages under the terms of this Master Contract. For purposes of this Master Contract, a commitment by Contractor which shall be in writing includes: (a) prices, discounts, and options committed to remain in force over a specified period of time; and, (b) any warranty or representation made by Contractor in its Response or contained in any literature, descriptions, drawings or specifications accompanying or referred to in a Response as to Equipment or software performance or any other physical, design or functional characteristics of a machine, software package, system, training, service or other product within the scope of this Master Contract.

20. Contractor Account Manager

Contractor's Account Manager will be the primary contact for DIS and Purchasers relative to this Master Contract. Contractor and the Account Manager shall be responsible for any misuse or abuse of this Master Contract that occurs on the part of Purchasers as a result of misrepresentation or misconduct on the part of Contractor or its employees. DIS reserves the right to require the replacement of the Account Manager if there are repeated instances of such occurrences.

21. Year 2000 Compliance Warranty

- 21.1. Definition. "Year 2000 Compliant" means that Contractor's Products will perform accurately and reliably in the processing of date and date-related data regardless of whether the dates are in the 20th or 21st centuries and that Contractor's Services will continue without interruption and with the same level of quality and reliability into the 21st century.
- 21.2. Contractor Warranty. Contractor warrants that all Products and Services set forth on Schedule A are Year 2000 Compliant or will be timely made Year 2000 Compliant at Contractor's expense.
- 21.3. Future Software and Service Warranty. Contractor warrants that all Products or Services to be added to the Contract during its term will be Year 2000 Compliant or will be timely made Year 2000 Compliant at Contractor's expense.
- 21.4. Failure to Comply. Contractor's failure to meet Year 2000 Compliant requirements will be considered a breach of contract.

Purchaser's Authority and Responsibilities

22. Purchaser Use of Master Contract

This Master Contract may be used by authorized Purchasers only and is not for personal use. Reference of this Master Contract Number and/or Purchaser's signature on the order document signifies agreement to comply with such restrictions on the use of covered Equipment and Service. Failure to abide by these restrictions may result in the Purchaser forfeiting the right to future purchases under this Master Contract.

Contract Administration

23. Notices

Any notice or demand or other communication required or permitted to be given under this Master Contract or applicable law (except notice of malfunctioning Equipment) shall be effective only if it is in writing, properly addressed, and delivered in person, or sent by facsimile transmission, or by a recognized courier service, or deposited with the United States Postal Service as first-class certified mail, postage prepaid and return receipt requested, to the parties at the following addresses or phone numbers:

To Contractor at:

Arch Paging

Attn: Lori Sechrist

5580 Pacific Highway East

Suite D

Tacoma, WA 98424

Fax number: (253) 922-5060

To DIS at:

State of Washington

Department of Information Services

Attn: Contract Administrator

PO Box 42445

512 - 12th Avenue SE

Olympia, WA 98504-2445

Fax number: (360) 664-0711

or to **Purchasers** at the address and fax number listed on their purchase order.

Notwithstanding RCW 1.12.070, such communications shall be effective upon the earlier of receipt or four (4) calendar days after mailing. The notice address and fax numbers as provided herein may be changed only by written notice as provided above.

24. Section Headings, Incorporated Documents and Order of Precedence

- 24.1. The headings used herein are inserted for convenience only and shall not control or affect the meaning or construction of any of the sections.
- 24.2. Each of the documents listed below is incorporated by this reference into this Master Contract as though fully set forth herein.
 - a) Exhibit A - State of Washington, DIS RFQ for Wireless Paging Equipment and Service dated November 13, 1997;
 - b) Exhibit B - Contractor's Response, dated December 4, 1997, including all written information provided with Contractor's Response;
 - c) The terms and conditions contained on Purchaser's purchase documents, if used; and,
 - d) All Contractor or manufacturer publications, written materials and schedules, charts, diagrams, tables, descriptions, and other written representations Contractor made available to Purchaser and used to effect the sale of Equipment to Purchaser, or purports the Equipment is fit for a particular purpose or attests to the Equipment's engineering level, operating condition, functions, capabilities, or merchantability.

- 24.3. In the event of any inconsistency in this Master Contract, it shall be resolved in the following order of precedence:
- a) Applicable federal and state statutes, laws, and regulations;
 - b) Provisions of this Master Contract (T98-MST-008);
 - c) Schedule A - *Authorized Product and Price List*;
 - d) Exhibit A to this Master Contract;
 - e) Exhibit B to this Master Contract; and
 - f) The terms and conditions contained on Purchaser's purchase documents, if used.

25. Entire Agreement

This Master Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and except as provided in the section **Contractor Commitments, Warranties and Representations**; understandings, agreements, representations, or warranties not contained in this Master Contract or a written amendment hereto shall not be binding on either party. Except as provided herein, no alteration of any of the terms, conditions, delivery, price, quality, or Specifications of this Master Contract will be effective without the written consent of both parties.

26. Additional Services and Equipment

DIS and Contractor agree that additional Equipment and/or Services, which are appropriate to the scope of this Master Contract, may be added to this Master Contract (Schedule A hereto) by an instrument in writing, with the consent of both parties. Such writing shall include a specific description of the additional Equipment and/or Services, pricing and additional terms and conditions as relevant.

27. Authority for Modifications and Amendments

No modification, amendment, alteration, addition or waiver of any section or condition of this Master Contract shall be effective or binding unless in writing and signed by authorized representatives of Contractor and DIS.

28. Independent Status of Contractor

In the performance of this Master Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever, nor will Contractor make any claim of right, privilege or benefit which would accrue to an employee under Chapter 41.06 RCW, Chapter 23B.16 RCW, or Title 51 RCW.

29. Governing Law

This Master Contract shall be governed in all respects by the law and statutes of the State of Washington. Jurisdiction for any action hereunder shall be the Superior Court for the State of

Washington. Venue of any action hereunder shall be in the Superior Court for Thurston County, Washington.

30. Subcontractors

Contractor may, with prior written permission from the DIS Contract Administrator, which consent shall not be unreasonable withheld, enter into subcontracts with third parties for performance of any part of Contractor's duties and obligations. In no event shall the existence of a subcontract operate to release or reduce Contractor's liability to Purchaser or DIS for any breach in the performance of Contractor's duties. For purposes of this Master Contract, Contractor agrees that all subcontractors shall be deemed agents of Contractor. Contractor further agrees to hold Purchaser or DIS harmless from acts or omissions of Contractor's subcontractors, their agents, or employees subject to the limitations set forth in the **Limitation of Liability** section of this Contract. Purchaser or DIS shall not be liable for any loss or damage resulting from personal injury, physical loss, harassment of employees, or violations of the **Patent and Copyright Indemnification** section of this Master Contract occasioned by the acts or omissions of Contractor's subcontractors, their agents or employees. The **Patent and Copyright Indemnification** section of this Master Contract shall apply to all subcontractors.

31. Assignment

- 31.1. With the prior written consent of DIS, which consent shall not be unreasonably withheld, Contractor may assign this Master Contract including the proceeds hereof: *provided that*, such assignment shall not operate to relieve Contractor of any of its duties and obligations hereunder, nor shall such assignment affect any remedies available to Purchaser or DIS that may arise from any breach of this Master Contract, its supplements, or warranties made herein, including but not limited to rights of setoff.
- 31.2. With the prior written consent of Contractor, which consent shall not be unreasonably withheld, DIS may assign this Master Contract to any public agency, commission, board, or the like, within the political boundaries of the State of Washington: *provided that*, such assignment shall not operate to relieve DIS of any of its duties and obligations hereunder.

32. Publicity

Contractor agrees to submit to DIS, all advertising, sales promotion, and other publicity matters relating to this agreement or any product furnished by Contractor wherein Purchaser or DIS is mentioned or language is used which infers or implies a connection with Purchaser or DIS. Contractor further agrees not to publish or use such advertising, sales promotion, or publicity matter without the prior written consent of DIS.

33. Review of Contractor's Records

- 33.1. Contractor and its subcontractors shall maintain books, records, documents and other evidence of accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature invoiced in the performance of this Master Contract. Such records shall be retained for six (6) years after the expiration or termination of this Master Contract. Records involving matters in litigation related to this Master Contract shall be kept for one (1) year following the termination of litigation,

including all appeals if the litigation has not terminated within five (5) years from the date of expiration or termination of this Master Contract.

- 33.2. All such records shall be subject at reasonable times and upon prior notice, to examination, inspection, copying, or audit by personnel authorized by the DIS Contract Administrator or the Office of the State Auditor and federal officials authorized by law, rule, regulation, or contract, when applicable. During the term of this Master Contract, access to these items will be provided within Thurston County. During the six (6) year period after the Contract term or five (5) year term following litigation, delivery of and access to these items will be at no cost to the State. Contractor shall be responsible for any audit exceptions or disallowed costs incurred by Contractor or any of its subcontractors.
- 33.3. The records retention and review requirements of this section shall be incorporated by Contractor in its subcontracts.
- 33.4. It is agreed that books, records, documents and other evidence of accounting procedures and practices related to Contractor's cost structure, including overhead, general and administrative expenses, and profit factors, shall be excluded from review unless the cost or any other material issued under this Master Contract is calculated or derived from these factors.

General Provisions

34. Patent and Copyright Indemnification

- 34.1. Contractor will, at its expense, defend or settle any claim against Purchaser that Equipment supplied hereunder infringe any patent, copyright, or trademark. Contractor will pay resulting costs, damages and attorneys' fees awarded by final judgement or agreed upon in a negotiated settlement, *provided that*, Purchaser:
 - a) Promptly notifies Contractor in writing of the claim; and
 - b) Cooperates with and agrees to use its best efforts to encourage the Office of the Attorney General of Washington to grant Contractor sole control of the defense and all related settlement negotiations.
- 34.2. Contractor will pay all costs of such defense and settlement, and any costs and damages awarded by a court or incurred by Purchaser, except costs paid to the Office of the Attorney General as legal fees. If such claim has occurred, or in Contractor's opinion is likely to occur, Purchaser agrees to permit Contractor at its option and expense, either to procure for Purchaser the right to continue using the Equipment or to replace or modify the same so that they become non-infringing and functionally equivalent. If use of the Equipment is enjoined by a court, and Contractor determines that none of these alternatives is reasonably available, Contractor, at its risk and expense, will take back the Equipment and refund its depreciated value. No termination charges will be payable on such returned Equipment, and Purchaser will pay only those charges which were payable prior to the date of such return. Depreciated value shall be calculated on the basis of a useful life of five (5) years commencing on the date of purchase and shall be an equal amount per year over said useful life. The depreciation for fractional parts of a year shall be prorated based on 365 days per year. In the event the Equipment has been installed less than one year, transportation to the initial installation site paid by Purchaser shall be refunded by Contractor.

34.3. Contractor has no liability for any claim of infringement arising from:

- a) Contractor's compliance with any designs, specifications or instructions of Purchaser;
- b) Modification of the Equipment by Purchaser or a third party without the prior knowledge and approval of Contractor;
- c) Use of the Equipment in a way not specified by Contractor; or
- d) Use of the Equipment with equipment not supplied by Contractor;

unless the claim arose against Contractor's Equipment, or Service independently of any of these specified actions.

35. Save Harmless

Contractor shall protect, indemnify and save Purchaser and DIS harmless from and against any damage, cost, or liability, resulting from any claim, including reasonable attorneys' fees, for any or all injuries to persons or damage to property arising from intentional, willful or negligent acts or omissions of Contractor, its officers, employees, agents, or subcontractors.

36. Industrial Insurance Coverage

Prior to performing work under this Master Contract, Contractor shall provide or purchase industrial insurance coverage for its employees, as may be required of an "employer" as defined in Title 51 RCW, and shall maintain full compliance with Title 51 RCW during the course of this Master Contract. Purchaser will not be responsible for payment of industrial insurance premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under the industrial insurance laws during the performance of this Master Contract.

37. Licensing Standards

Contractor shall comply with all applicable local, state, and federal licensing requirements and standards necessary in the performance of this Master Contract. (See, for example, Chapter 19.02 RCW for state licensing requirements and definitions.)

38. OSHA/WISHA

Contractor represents and warrants that its products, when shipped, are designed and manufactured to meet then current federal and state safety and health regulations. Contractor further agrees to indemnify and hold Purchaser harmless from all damages assessed against Purchaser as a result of the failure of the items furnished under this Master Contract to so comply.

39. Compliance with Civil Rights Laws

During the performance of this Master Contract, Contractor shall comply with all federal and applicable state nondiscrimination laws, including but not limited to: Title VII of the Civil Rights Act, 42 U.S.C. 12101 *et seq.*; the Americans with Disabilities Act (ADA); and Chapter 49.60 RCW, Washington Law Against Discrimination. IN the event of Contractor's noncompliance or refusal to comply with any nondiscrimination law, regulation or policy, this Master Contract may be rescinded or terminated in whole or in part under the **Termination for Default** section, and Contractor may be declared ineligible for further Contracts with Purchaser. In addition to the

cancellation of this Master Contract, Contractor may be subject to penalties under federal and state law.

40. Severability

The terms and conditions of this Master Contract are declared severable. If any term or condition of this Master Contract or the application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition, or application.

41. Waiver

Waiver of any breach of any term or condition of this Master Contract shall not be deemed a waiver of any prior or subsequent breach. No term or condition of this Master Contract shall be held to be waived, modified, or deleted except by a written instrument signed by the parties hereto.

42. Treatment of Assets

- 42.1. Title to all property furnished by Purchaser shall remain in Purchaser. Title to all property furnished by Contractor, for which Contractor is entitled to reimbursement under this Master Contract, other than rental payments, shall pass to and vest in Purchaser under the Title provisions above.
- 42.2. Any property of Purchaser furnished to Contractor, unless otherwise provided herein or approved by Purchaser, shall be used only for the performance of this Master Contract.
- 42.3. Contractor shall be responsible for any loss or damage to property of purchaser which results from willful misconduct or negligence on the part of Contractor or which results from the failure on the part of Contractor to maintain and administer that property in accordance with sound management practices.
- 42.4. Upon loss, destruction, or damage to any Purchaser property, Contractor shall notify Purchaser thereof and shall take all reasonable steps to protect that property from further damage.
- 42.5. Contractor shall surrender to Purchaser all Purchaser's property prior to settlement upon completion, termination, or cancellation of this Master Contract.
- 42.6. All references to Contractor under this section shall also include Contractor's employees, agents, or subcontractors.

43. Contractor's Proprietary Information

Contractor acknowledges that DIS is subject to Chapter 42.17 RCW, the Public Disclosure Act, and that this Master Contract shall be a public record as defined in RCW 42.17.250 through 42.17.340. Any specific information that Contractor claims to be confidential or proprietary shall be clearly identified as such by Contractor. To the extent consistent with Chapter 42.17 RCW, DIS shall maintain the confidentiality of all such information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, DIS will notify Contractor of the request and of the date that the records will be released to the requester unless Contractor

obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, DIS will release the requested information on the date specified.

Disputes and Remedies

44. Disputes

- 44.1. In the event a bona fide dispute concerning a question of fact arises between Contractor and Purchaser or DIS and it cannot be resolved between the parties with the aid of the DIS Contract Administrator, either party may initiate the dispute resolution procedure provided herein.
- 44.2. Disputes shall be resolved as quickly as possible. The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) business days.
 - a) Both parties shall have three (3) business days to negotiate in good faith to resolve the dispute. If the dispute cannot be resolved within three (3) business days, a dispute resolution panel may be requested in writing by the initiating party, who shall also identify the first panel member.
 - b) Within three (3) business days of receipt of the initiating party's request, the responding party will designate a panel member. The two panel members will appoint a third member to the panel within the next three (3) business days.
 - c) Each of the parties agrees to bear the costs of its own designated panel member. The costs for the third panel member shall be shared equally by the parties.
 - d) The panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.
 - e) The parties agree that the decision of the panel will be binding.
- 44.3. Purchaser, DIS and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Master Contract which are not affected by the dispute.
- 44.4. Purchaser, DIS and Contractor agree to exercise good faith in dispute resolution and, whenever possible, to settle disputes prior to using the dispute resolution panel. No party shall commence litigation against another before the panel has issued its decision on the matter in dispute.
- 44.5. This Disputes clause does not preclude the consideration of questions of law in connection with decisions provided for in this clause, *provided that*, nothing in this Master Contract shall be construed as making final the decisions of any administrative official, representative, or board on a question of law.

45. Attorneys' Fees and Costs

If any party brings litigation to enforce any term, condition, or section of this Master Contract, or as a result of this Master Contract in any way, the prevailing party shall be awarded its reasonable attorneys' fees together with necessary fees, expenses, and costs incurred for such litigation at both trial and appellate levels, as well as subsequent to judgement in obtaining execution thereof.

46. Non-Exclusive Remedies

The remedies provided for in this Master Contract shall not be exclusive but are in addition to all other remedies available under law.

47. Limitation of Liability

- 47.1. The parties agree that neither Contractor nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim or demand based on patent or copyright infringement, in which case liability shall be as set forth elsewhere in this Master Contract. The damages specified in the sections titled **Year 2000 Compliance Warranty, Review of Contractor's Records, OSHA/WISHA and Termination for Default** are not consequential, incidental, indirect, or special damages as those terms are used in this section.
- 47.2. Neither Contractor nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of either Contractor or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays shall be beyond the reasonable control and without fault or negligence of Contractor, Purchaser, or their respective subcontractors.
- 47.3. If delays are caused by a subcontractor without its fault or negligence, neither Contractor nor Purchaser shall be liable for damages for delays, unless the Equipment or Services were obtainable on comparable terms from other sources in sufficient time to permit Contractor or Purchaser to meet its required performance schedule.
- 47.4. Neither party shall be liable for personal injury or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

Contract Termination

48. Termination for Default

- 48.1. If Contractor violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its obligations under this Master Contract, the DIS Contract Administrator or the affected Purchaser shall give Contractor written notice of the failure or violation, and the failure or violation shall be corrected by Contractor within thirty (30) calendar days or as otherwise mutually agreed. If Contractor's failure or violation is not so corrected, Purchaser, at its option, may withhold all monies due and payable to Contractor until such failure to perform is cured or otherwise resolved, or pursue immediate termination of an order or this Master Contract, as appropriate. This Master Contract may be terminated in whole or in part, immediately by written notice from the DIS Contracting Officer to Contractor or Purchaser's order may be terminated by written notice from Purchaser to Contractor. The option to terminate this Master Contract shall be at the sole discretion of DIS.
- 48.2. In the event DIS terminates this Master Contract or Purchaser terminates an order, DIS or Purchaser shall have the right to procure the Equipment and Services that are the subject

of this Master Contract on the open market and Contractor shall be liable for all damages including, but not limited to:

- a) The cost difference between the original Master Contract price for the Equipment and Services and the replacement costs of such Equipment and Services acquired from another vendor; and
 - b) If applicable, all administrative costs directly related to the replacement of the Master Contract, such as costs of competitive bidding, mailing, advertising, applicable fees, charges or penalties, and staff time costs; and,
 - c) Any other costs to Purchaser or DIS resulting from Contractor's breach. Purchaser or DIS shall have the right to deduct from any monies due to Contractor, or that thereafter become due, an amount for damages that Contractor will owe Purchaser or DIS for Contractor's default.
- 48.3. If either DIS or Purchaser violates any material term or condition of this Master Contract or fails to fulfill in a timely and proper manner its performance obligations under this Master Contract, then Contractor shall give the DIS Contracting Officer or Purchaser, as appropriate, written notice of such failure, which shall be corrected by DIS or Purchaser within thirty (30) calendar days. If such failure to perform is not so corrected, Purchaser's order may be terminated by written notice from Contractor to Purchaser or, if appropriate, this Master Contract may be terminated immediately by written notice from Contractor to the DIS Contracting Officer.
- 48.4. If it is determined the failure to perform is without the defaulting party's control, fault, or negligence; the termination shall be deemed a Termination for Convenience.
- 48.5. This section shall not apply to any failure to perform that results from the willful or negligent acts or omissions of the aggrieved party.

49. Termination for Convenience

- 49.1. When it is in the best interest of Purchaser or DIS, the DIS Contracting Officer may terminate this Master Contract, in whole or in part, by fourteen (14) calendar days written notice to Contractor. Invocation of the **Termination for Withdrawal of Authority** or **Termination for Non-Allocation of Funds** sections shall be deemed a Termination for Convenience but will not require such fourteen (14) calendar days written notice.
- 49.2. If this Master Contract is so terminated, Purchaser is liable only for payments required by the terms of this Master Contract for Equipment and Services received and accepted by Purchaser prior to the effective date of termination.

50. Termination for Withdrawal of Authority

In the event that the authority of Purchaser or DIS to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Master Contract and prior to normal completion, DIS may terminate this Master Contract under the **Termination for Convenience** section. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit DIS to terminate this Master Contract to acquire similar Equipment or Services from a third party.

51. Termination for Non-Allocation of Funds

If funds are not allocated to continue this Master Contract in any future period, Purchaser or DIS will not be obligated to pay any further charges for Equipment or Services, including the net remainder of agreed to consecutive periodic payments remaining unpaid beyond the end of the then-current period. In such case, Purchaser or DIS agrees to notify Contractor at the earliest possible opportunity of such non-allocation. No penalty shall accrue to Purchaser or DIS for exercising its rights under this section. This section shall not be construed to permit Purchaser or DIS to terminate this Master Contract to acquire similar Equipment or Services from a third party.

52. Termination for Conflict of Interest

DIS may terminate this Master Contract by written notice to Contractor if DIS determines, after due notice and examination, that any party has violated Chapter 42.52 RCW, Ethics in Public Service or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Master Contract is terminated for conflict of interest, DIS shall be entitled to pursue the same remedies against Contractor as it could pursue in the event Contractor breaches this Master Contract.

53. Termination Procedure

- 53.1. Upon termination of all or part of this Master Contract and in addition to any other rights provided in this Contract, DIS may require Contractor to deliver to Purchaser or DIS, as appropriate, any property or Equipment specifically produced or acquired for the performance of such part of this Master Contract as has been terminated.
- 53.2. Unless otherwise provided herein, Purchaser shall pay to Contractor the agreed-upon price, if separately stated, for Equipment or Services received and accepted by Purchaser, *provided that*, in no event shall Purchaser pay to Contractor an amount greater than Contractor would have been entitled to if this Master Contract had not been terminated. Failure to agree with such determination shall be a dispute within the meaning of the **Disputes** section of this Contract. Purchaser may withhold from any amounts due Contractor for such Equipment or Services, such sum as Purchaser determines necessary to protect Purchaser from potential loss or liability.
- 53.3. Within thirty (30) calendar days of notice, Contractor shall pay any damages due DIS or Purchaser.

Activity Reporting and Administration Fee

54. DIS Master Contract Administration Fee and Collection

- 54.1. All purchases made under this Master Contract are subject to a DIS Master Contract Administration Fee, collected by Contractor and remitted to DIS.
- 54.2. Purchases made under this Master Contract will be subject to a DIS Master Contract Administration Fee. This fee will be invoiced by Contractor to all Purchasers, collected by Contractor and distributed to DIS in accordance with the provisions set forth in the attached Contract (Appendix B).
- 54.3. The Administration Fee will be ten cents (\$0.10) per active line (Subscriber) per month.

- 54.4. The Master Contract Administration Fee shall be invoiced by Contractor to all Purchasers as a separate detailed line item on Purchaser's invoice.
- 54.5. Contractor shall remit the Master Contract Administration Fee directly to the DIS Contract Administrator along with the Master Contract Activity Report.

55. Master Contract Activity Reporting

- 55.1. Contractor shall submit to the DIS Contract Administrator a monthly Activity Report of all Equipment and Services purchases made under this Master Contract. The report shall identify:
 - a) This Master Contract number (T98-MST-008);
 - b) Each Purchaser making purchases during that month;
 - c) The total invoice price, excluding sales tax for each Purchaser; and,
 - d) The sum of all invoice prices, excluding sales tax, for all Purchasers;
 - e) The DIS Master Contract Administration Fee.
- 55.2. The Activity Report and the DIS Master Contract Administration Fee shall be submitted by the 15th calendar day of the month following the month in which Contractor invoiced Purchaser. Contractor shall submit this report according to the layout specified by the DIS Contract Administrator.
- 55.3. This report may be corrected or modified by the DIS Contract Administrator with subsequent written notice to Contractor.
- 55.4. Monthly reports are required even if no activity occurred.

56. Failure to Remit Reports/Fees

- 56.1. Failure of Contractor to remit the Master Contract Activity Report together with the Master Contract Administration Fee may be considered a failure to perform on the part of Contractor, which may result in DIS terminating this Master Contract with Contractor.
- 56.2. Failure of any Purchaser to pay the Master Contract Administration Fee may result in a Purchaser forfeiting its right to purchase from this Master Contract. Contractor shall notify the DIS Contract Administrator when any Purchaser fails to pay the Master Contract Administration Fee.
- 56.3. The DIS Contract Administrator will notify Contractor of any Purchaser who has forfeited its right to purchase under this Master Contract. After such notification, any sale by Contractor to a forfeiting Purchaser may be considered failure to perform by Contractor.
- 56.4. If the performance issues are resolved, DIS, at its option, may reinstate a Contractor's participation or a Purchaser's right to purchase.

Contract Execution

57. Authority to Bind

The signatories to this Master Contract represent that they have the authority to bind their respective organizations to this Contract.

58. Counterparts

This Master Contract may be executed in counterparts or in duplicate originals. Each counterpart or each duplicate shall be deemed an original copy of the Master Contract signed by each party, for all purposes.

In Witness Whereof, the parties hereto, having read this Master Contract in its entirety, including all attachments, do agree in each and every particular and have thus set their hands hereunto.

APPROVED

State of Washington
Department of Information Services

Signature

John M. Anderson

Print or Type Name

Assistant Director

Title

12/31/97
Date

APPROVED

Arch Paging

Signature

LORI A. SECHRIST

Print or Type Name

Dist. General Manager 12-29-97
Title Date

Approved as to Form

State of Washington,
Office of the Attorney General

Signature

Anthony E. Keating

Print or Type Name

Assistant Attorney General

Title

12/30/97
Date

Contractor's Phone Number:

(253) 922-4595 (800) 879-3785

Contractor's Fax Number:

(253) 922-5060

Contractor's UBI Number:

Contractor's Federal Tax ID Number:

Minority or Woman Owned Business Enterprise

Yes

No



(Certification Number)

Schedule B

Problem Escalation Procedures

The first point of notification for any type of pager failure or outage is the Major Account Executive and/or Major Account Support Representative.

First Level: Penni Scott/Foust
Major Account Executive
And/or
Rene Hein
Major Account Support Representative
(800) 879-3785

The second point of escalation for any type of pager failure or outages is the General Manager. The General Manager should be contacted if the problem is not resolved or service is not restored after eight (8) Business Hours.

Second Level: Lori Sechrist
General Manager
(800) 879-3785

The third level of escalation is the Regional General Manager, located in Bellevue, Washington. This level of escalation should be used if the problem is not resolved or service is not restored after twenty-four (24) hours.

Third Level: Mark Madison
Regional General Manager
(800) 879-3781